

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on September 12, 2018

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman, dissenting
James S. Alesi

CASE 03-E-0188 - Proceeding on Motion of the Commission Regarding
a Retail Renewable Portfolio Standard.

CASE 14-M-0094 - Proceeding on Motion of the Commission to
Consider a Clean Energy Fund.

ORDER REGARDING NY-SUN FUNDS

(Issued and Effective September 14, 2018)

BY THE COMMISSION:

INTRODUCTION AND BACKGROUND

The NY-Sun initiative, managed by the New York State Energy Research and Development Authority (NYSERDA), was launched in 2012 with a goal of adding 3 GW of solar capacity in New York State by 2023.¹ In support of the NY-Sun goal, the Public Service Commission's (Commission) Redesign Order directed NYSERDA to redesign and transition, by 2016, the solar photovoltaic (PV) incentive programs operating under the Renewable Portfolio Standard (RPS) Customer-Sited Tier (CST) to

¹ Case 03-E-0188, Retail Renewable Portfolio Standard, Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Program From 2012 Through 2015 and the Reallocation of Main-Tier Unencumbered Funds (April 24, 2012).

a MW Block structure with declining incentives.² The Redesign Order also authorized NYSERDA to reallocate \$216 million of unencumbered RPS funds from the Main Tier to the CST for the operation of NY-Sun during 2014 and 2015 and stated that the source of funds for post-2015 program years would be identified as part of the deliberations regarding all post-2015 clean energy programs.³

In January 2016, the Commission's Clean Energy Fund (CEF) Order consolidated all post-2015 NYSERDA clean energy activities and rate-payer funding under the CEF program, with a 10-year program authorization and associated minimum targets. These targets included 10.6 million MWh and 13.4 million MMBtu of energy efficiency, 88 million MWh of renewable energy, 133 million tons of CO₂e reductions, \$39 billion in customer bill savings, and \$29 billion in private investment.⁴ The NY-Sun initiative, its goals, and its post-2015 funding were included as part of the CEF.

The CEF Order identified \$960.6 million in necessary funding to support the NY-Sun program for the prospective 2016 to 2023 period. The CEF Order required NYSERDA to report all NY-Sun specific financial and programmatic metrics through NY-Sun specific reports and to update the NY-Sun Operating plan to incorporate any previous addendums and other necessary adjustments, as outlined in the CEF Order. In addition, the CEF

² Case 03-E-0188, supra, Order Authorizing the Redesign of the Solar Photovoltaic Programs and the Reallocation of Main-Tier Unencumbered Funds (issued December 19, 2013) (Redesign Order).

³ Id.

⁴ Cases 14-M-0094 et al., Proceeding on Motion of the Commission to Consider a Clean Energy Fund, Order Authorizing the Clean Energy Fund Framework (issued January 21, 2016) (CEF Order).

Order directed NYSERDA to identify specific uses for excess uncommitted funds from legacy portfolios, including RPS, at the end of 2015 and subsequent years.⁵ Further, the CEF Order allowed for the NY-Sun budget allocation for the 2016 to 2023 period to be fully retained in the case of project attrition.

On May 9, 2018, NYSERDA submitted a petition (the Petition) requesting that the Commission authorize the continued use of uncommitted RPS funds, which were previously allocated to the NY-Sun Initiative for years 2014 and 2015 (i.e., prior to the authorization of the CEF), for the NY-Sun Program.⁶ NYSERDA indicates that all RPS funds allocated to years 2014 and 2015 are currently committed to solar PV projects. In the event any of those funds become uncommitted, the Petition seeks to ensure that they would be available for funding other solar PV projects necessary to support NY-Sun's goal.

In this Order, the Commission authorizes NYSERDA to reallocate any RPS funds, which were previously assigned to the NY-Sun initiative for specific program years 2014 and 2015, for general use as part of the NY-Sun Program. This reauthorization shall apply in the event such funds become uncommitted due to project attrition.

⁵ The CEF Order identified the following priority uses of funds, of which priorities 1-3 have been met or are no longer relevant: 1) provide approximately \$10 million to satisfy unfunded RPS cost recovery fee projected expenses; 2) provide additional support for projects through the 2016 RPS Main Tier solicitation should demand exceed the budget established in this order; 3) delay the need to establish or access the NYGB Credit Facility to further minimize costs; or 4) to retain such excess for future ratepayer benefit.

⁶ The Petition includes revisions, and supplants, a filing previously submitted on March 1, 2018.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on May 30, 2018 [SAPA No. 14-M-0094SP10]. The time for submission of comments pursuant to the Notice expired on July 30, 2018. No comments were received.

THE PETITION

In the Petition, NYSERDA requests that uncommitted RPS funds allocated to the NY-Sun Initiative for years 2014 and 2015 remain available to the NY-Sun Program in the event of project attrition. NYSERDA explains that the 10-year, 3 GW goal of the NY-Sun initiative was based on the entire funding of NY-Sun, including the \$216 million of former RPS CST funds and the \$960 million of CEF funding. Therefore, NYSERDA states that because the 2014-2015 NY-Sun Program funds were authorized as part of the 3 GW goal, the \$216 million of former RPS CST funds should be excluded from the CEF Order's directives related to the use of uncommitted funds at the end of 2015 and subsequent years.

The Petition identifies the status of NY-Sun funding, as of December 31, 2017, as follows:

<u>Status of 2014-2015 RPS-CST Funds (As of December 31, 2017)</u>	
NY-Sun Funding Authorization	
<i>RPS-CST 2014-2015 Funding</i>	\$216,000,000
<i>CEF Funding</i>	\$960,600,000
Total NY-Sun Funding	<u>\$1,176,600,000</u>
Spent/Committed	\$635,189,432
Total Uncommitted NY-Sun Program Funds	<u>\$541,410,568</u>

LEGAL AUTHORITY

The Commission took action in the RPS Transition and CEF Orders to establish, allocate funds to, and create rules for the NY-Sun and CEF initiatives as part of fulfill its

responsibilities under the Public Service Law (PSL) and Energy Law. PSL §5(2) requires the Commission to “encourage all . . . corporations subject to its jurisdiction to formulate and carry out long-range programs . . . for the performance of their public service responsibilities with economy, efficiency, and care for the public safety, the preservation of environmental values and the conservation of natural resources.” Pursuant the New York Energy Law, including §§ 3-103 and 6-104, the Commission is required to take action to effectuate State energy policy and the New York State Energy Plan, which includes the CEF and NY-Sun as major contributors.⁷ In this Order, the Commission refines the funding allocations and program rules of the CEF and NY-Sun based on those responsibilities.

DISCUSSION AND CONCLUSION

NYSERDA’s RPS-CST Operating Plan Addendum, filed in August 2014, noted the MW-Block program design was inclusive of the funding previously authorized for the CST-PV programs for 2014 and 2015.⁸ However, neither NYSERDA’s CEF Proposal,⁹ nor its CEF Information Supplement,¹⁰ nor the Commission’s CEF Order¹¹ made a distinction between the treatment of NY-SUN funds allocated for activities prior to 2016 from other legacy NYSERDA portfolios, such as other RPS funds, System Benefits Charge

⁷ 2015 New York State Energy Plan, available at <https://energyplan.ny.gov/Plans/2015.aspx>.

⁸ Case 03-E-0188, supra, Renewable Portfolio Standard Customer-Sited Tier Operating Plan Addendum (2014-2023) (filed August 12, 2014).

⁹ Case 14-M-0094, supra, NYSERDA Clean Energy Fund Proposal (filed September 23, 2014).

¹⁰ Case 14-M-0094, supra, NYSERDA CEF Information Supplement (filed June 25, 2015).

¹¹ Case 14-M-0094, supra, CEF Order.

(SBC) funds, or Energy Efficiency Portfolio Standard (EEPS) funds. As the RPS Main Tier, SBC, and EEPS were ceasing operations with the transition to the CEF in 2016, it was appropriate to allocate any future uncommitted funds in those programs to new uses. However, NY-Sun program operations were continuing through 2023.

The Operating Plan filed in 2014, and subsequently updated in 2015, reflects the NY-Sun budget as inclusive of the 2014 to 2015 budgets, and supports NYSERDA's position that the NY-Sun, 10-year, 3 GW goal was developed in consideration of the 2014 to 2015 funding.¹² Therefore, it is appropriate for funds from the 2014 and 2015 program years to receive the same treatment as that of funds for program years 2016-2023, which are allowed to be retained for programmatic use in the event of project attrition. NY-Sun's total funding is correctly calculated at \$1,176.6 million, resulting from the \$216 million authorized in the Redesign Order and the \$960.6 million authorized in the CEF Order. All of this funding should be available to support NYSERDA's achievement of the 3 GW goal. As such, going forward, the \$216 million CST NY-Sun funds for program years of 2014 and 2015 should be reflected within the NY-Sun's program budget and classified as such for all accounting matters.

The Commission orders:

1. Funds allocated to the Renewable Portfolio Standard Customer-Sited Tier for activities in 2014 and 2015, as authorized in the Commission's Order Authorizing the Redesign of the Solar Photovoltaic Programs and the Reallocation of Main-Tier Unencumbered Funds, issued December 19, 2013 in Case

¹² Case 03-E-0188, supra, NY-Sun 2016-2023 Operating Plan (filed May 1, 2015).

03-E-0188, shall continue to be included in the NY-Sun program budget in the event they become uncommitted due to project attrition.

2. The New York State Energy Research and Development Authority shall revise all Renewable Portfolio Standard, NY-Sun, and Clean Energy Fund reporting, as necessary to reflect the discussion in the body of this order and determination in Ordering Clause No. 1 above.

3. These proceedings shall be continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary